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**FILED**

JAN 04 2016

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES ex rel. YANCY  
CUMMINGS,

Relator,

Y.

MARY E. BRANTLEY HALE, et al.,

Defendant.

CASE NO. C 15-04723 JCS

**NOTICE OF ELECTION TO DECLINE  
INTERVENTION BY UNITED STATES  
OF AMERICA; ~~[PROPOSED]~~ ORDER  
TO UNSEAL**

**[FILED UNDER SEAL]**

1 Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the  
2 Court of its decision not to intervene in this action. Although the United States declines to intervene, it  
3 respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in  
4 the name of the United States; providing, however, that the “action may be dismissed only if the court  
5 and the Attorney General give written consent to the dismissal and their reasons for consenting.” *Id.*  
6 The United States Court of Appeals for the Ninth Circuit has held that, notwithstanding this language,  
7 the United States only has the right to a hearing when it objects to a settlement or dismissal of the action.  
8 *U.S. ex rel. Green v. Northrop Corp.*, 59 F.3d 953, 959 (9th Cir. 1995); *U.S. ex rel. Killingsworth v.*  
9 *Northrop Corp.*, 25 F.3d 715, 723-25 (9th Cir. 1994).

10 Therefore, the United States requests that, should either the relator or the defendants propose that  
11 this action be dismissed, settled, or otherwise discontinued, this Court provide the United States with  
12 notice and an opportunity to be heard before ruling or granting its approval.

13 Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings  
14 filed in this action be served upon the United States. The United States also requests that orders issued  
15 by the Court be sent to the Government’s counsel. The United States reserves its rights to order any  
16 deposition transcripts and to intervene in this action, for good cause, at a later date, and to seek dismissal  
17 of the relator’s action or claim. *See* 31 U.S.C. § 3730(c)(2), (3). The United States also requests that it  
18 be served with all notices of appeal.

19 Finally, the United States requests that the Court unseal: (1) Relator’s Complaint; (2) the  
20 summons, if any; (3) the scheduling order; (4) this Notice of Election to Decline Intervention, and  
21 Proposed Order to Unseal; and (5) all other matters occurring in this action after the date the Court  
22 enters the unsealing order. The United States requests that all other contents of the Court’s file in this  
23 matter (including, but not limited to, any applications filed by the United States for extensions of the

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1 sixty-day investigative period, any applications for partial lifting of the seal, and any orders previously  
2 entered in this matter) remain under seal and not be made public or served upon defendants.

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4 DATED: December 30, 2015

Respectfully submitted,

5 BRIAN J. STRETCH  
6 Acting United States Attorney

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MARK R. CONRAD  
10 Assistant United States Attorney  
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~~PROPOSED~~ ORDER TO UNSEAL

The United States having declined to intervene in this action pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), IT IS HEREBY ORDERED that:

1. The Complaint, the summons, the scheduling order, this Order, and the accompanying United States' Notice of Election to Decline Intervention are hereby unsealed.
2. The relator shall serve the Complaint on defendants.
3. Any applications and/or declarations that have been filed under seal by the United States for an extension of the sixty-day investigative period or for any other reason shall remain under seal and not be made public or served upon the defendants.
4. The seal shall be lifted as to all other matters occurring in this action after the date of this Order.
5. The parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time.
6. The parties shall serve all notices of appeal upon the United States.
7. All orders of this Court shall be sent to the United States.
8. Should the relator or the defendants propose that this action be dismissed, settled, or otherwise discontinued, the Court will provide the United States with notice and an opportunity to be heard before ruling or granting its approval.

IT IS SO ORDERED.

Dated: 1/4/2016

  
HON. JOSEPH C. SPERO  
United States Magistrate Judge



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

YANCY CUMMINGS, et al.,  
Plaintiffs,

v.

MARY E. BRANTLEY HALE,  
Defendant.

Case No. 15-cv-04723-JCS  
\*SEALED\*

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 4, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jason A Hain  
Law Offices of Jason Hain  
30 Cumberland Street  
San Francisco, CA 94110

Mark R. Conrad  
United States Attorney's Office Northern District of California  
450 Golden Gate Avenue  
Box 36055  
San Francisco, CA 94102

Dated: January 4, 2016

Susan Y. Soong  
Clerk, United States District Court

By: Karen L. Hom  
Karen Hom, Deputy Clerk to the  
Honorable JOSEPH C. SPERO